

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
TYLER DIVISION

ASHLEY ADAMS, ET AL. §  
v. § CIVIL ACTION NO. 6:13cv712  
BRAD LIVINGSTON, ET AL. §

MEMORANDUM ADOPTING REPORT AND RECOMMENDATION  
OF THE UNITED STATES MAGISTRATE JUDGE

The Plaintiffs in this case, surviving family members of three men who died in the Texas penitentiary from heat-related causes, filed this lawsuit against a number of individuals and entities, including TDCJ Executive Director Brad Livingston, TDCJ's Correctional Institutions Division director Rick Thaler, and TDCJ-CID deputy director William Stephens (the "executive defendants"). These Defendants have filed a motion to dismiss based on qualified immunity.

The Magistrate Judge issued a Report recommending that this motion to dismiss be deferred and carried until the issue of qualified immunity may be decided. *See Backe v. LeBlanc*, 691 F.3d 645, 648 (5th Cir. 2012). Copies of the Magistrate Judge's Report were sent to the parties, but no objections were filed thereto; accordingly, the parties are barred from *de novo* review by the district judge of those findings, conclusions, and recommendations and, except upon grounds of plain error, from appellate review of the unobjected-to factual findings and legal conclusions accepted and adopted by the district court. *Douglass v. United Services Automobile Association*, 79 F.3d 1415, 1430 (5th Cir. 1996) (*en banc*).

The Court has reviewed the pleadings in this cause and the Report of the Magistrate Judge. Upon such review, the Court has determined that the Report of the Magistrate Judge is correct. *See United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir.), *cert. denied*, 492 U.S. 918, 109 S.Ct. 3243

(1989) (where no objections to a Magistrate Judge's Report are filed, the standard of review is "clearly erroneous, abuse of discretion and contrary to law"). It is accordingly

**ORDERED** that the Report of the Magistrate Judge (docket no. 72) is hereby **ADOPTED** as the opinion of the District Court. It is further

**ORDERED** that the Executive Defendants' motion to dismiss based on qualified immunity (docket no. 31) is hereby **DEFERRED** and **CARRIED** until the issue of qualified immunity may be decided. It is further

**ORDERED** that the Executive Defendants' motion to stay and objections to discovery (docket no. 40) is hereby **GRANTED IN PART** and **DENIED IN PART**. Discovery limited to the issue of qualified immunity shall be allowed to proceed.

**It is SO ORDERED.**

**SIGNED this 12th day of June, 2014.**

A handwritten signature in black ink, reading "Michael H. Schneider", written over a horizontal line.

MICHAEL H. SCHNEIDER  
UNITED STATES DISTRICT JUDGE